IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO.746/2006 IN WRIT PETITION NO.4558/2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : D.D.SINHA AND
S.R.DONGAONKAR, JJ.

DATED : AUGUST 30, 2006

Heard Shri Parchure, learned Counsel for the petitioners.

The miscellaneous civil application is directed against the judgment dated 21.6.2006 passed by the Division Bench of this Court whereby writ petition filed by the petitioners bearing No. 4558/2005 came to be dismissed.

The learned Counsel for the petitioners states that before Division Bench of this Court, apart from the ground of violation of principles of natural justice, various other grounds including ground of malafide were raised. However, Division Bench of this Court after considering only

the ground of violation of principles of natural justice concluded the issue and, therefore, it is a proper case where this Court may show indulgence in its review jurisdiction.

In order to appreciate the above referred contentions, we have perused the impugned judgment. In para (2) of the impugned judgment, the grievance canvassed by the learned Counsel for the petitioners is reflected, which reads thus :

> "The grievance of the petitioners is that the respondent/Government has finalised the regional plan for the Nagpur region in contravention of the provisions comprised under Section 15 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter called as the Act) read with the judgment of this Court dated 23.8.2001 passed in Writ Petition No.910 of 2001 inasmuch as that the plan has been finalised without affording opportunity to the petitioners of being heard on the modifications approved in the said plan in comparison to the earlier regional

plan."

Similarly, in para (10) of the impugned judgment, the Division Bench has observed thus :

> "As no other point is sought to be raised in the petition and as we have already held that the petitioners were granted hearing and there cannot be second occasion for hearing on the report of the Assistant Director of Town Planning, nothing survives in the petition."

In view of the above referred observations made by the Division Bench in the impugned judgment, it is evident that only grievance made by the petitioners in the petition and canvassed before the Court by the learned Counsel for the petitioners was in respect of Authorities not following the principles of natural justice and, therefore, in our view, the Division Bench of this Court was justified in not considering any other ground.

So far as above referred grievance of the petitioners is concerned, it is not in dispute that hearing was given to the petitioners before issuing notification under Section 15 of the Act by the Assistant Director of Town Planning and, therefore, conclusion recorded by the Division Bench that grant of second hearing is not contemplated in law is just and proper. The miscellaneous civil application suffers from lack of merit and hence, the same is dismissed.

JUDGE JUDGE

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